

2013

STATE OF NEBRASKA

**STATUTES RELATING TO
EMERGENCY MEDICAL SERVICES PRACTICE ACT**



Department of Health and Human Services
Division of Public Health
Licensure Unit

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EMERGENCY MEDICAL SERVICES PRACTICE ACT

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(a) EMERGENCY MEDICAL TECHNICIANS

- 71-5101 to 51-5165. Repealed. Laws 1997, LB 138, §57.

(c) EMERGENCY MEDICAL SERVICES ACT

- 71-5172. Transferred to section 38-1201.
- 71-5173. Transferred to section 38-1202.
- 71-5174. Transferred to section 38-1203.
- 71-5175. Transferred to section 38-1204.
- 71-5176. Transferred to section 38-1215.
- 71-5177. Transferred to section 38-1216.
- 71-5178. Transferred to section 38-1217.
- 71-5179. Transferred to section 38-1218.
- 71-5180. Repealed. Laws 2007, LB 463, § 1319.
- 71-5181. Repealed. Laws 2007, LB 463, § 1319.
- 71-5181.01. Transferred to section 38-1222.
- 71-5182. Repealed. Laws 2007, LB 463, § 1319.
- 71-5183. Transferred to section 38-1223.

71-5184. Transferred to section 38-1224.
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 71-5190. Transferred to section 38-1230.
 71-5191. Transferred to section 38-1220.
 71-5192. Repealed. Laws 2007, LB 463, § 1319.
 71-5193. Transferred to section 38-1231.
 71-5194. Transferred to section 38-1232.
 71-5195. Transferred to section 38-1233.
 71-5196. Transferred to section 38-1234.
 71-5197. Transferred to section 38-1235.
 71-5198. Transferred to section 38-1236.
 71-5199. Transferred to section 38-1237.
 71-51,100. Repealed. Laws 2007, LB 463, § 1319.
 71-51,101. Repealed. Laws 1997, LB 90, §8.

(d) AUTOMATED EXTERNAL DEFIBRILLATOR

71-51,102. Automated external defibrillator; use; conditions; liability.

(e) NEBRASKA EMERGENCY MEDICAL SYSTEM OPERATIONS FUND

71-51,103. Nebraska Emergency Medical System Operations Fund; created; use; investment.

EMERGENCY MEDICAL CARE

71-5501 to 71-5518. Repealed. Laws 1997, LB 138, §57.
 71-5519. Transferred to section 71-5501.01.
 71-5520 to 71-5521.01. Repealed. Laws 1997, LB 138, §57.
 71-5522. Transferred to section 71-5514.01.
 71-5523. Repealed. Laws 1997, LB 138, §57.

FIRST RESPONDERS EMERGENCY RESCUE ACT

71-7301 to 71-7318. Repealed. Laws 1997, LB 138, §57.

STATUTES PERTAINING TO EMERGENCY MEDICAL SERVICES PRACTICE ACT

38-1201. Act, how cited. Sections 38-1201 to 38-1237 shall be known and may be cited as the Emergency Medical Services Practice Act.

Source: Laws 1997, LB 138, § 1; Laws 2003, LB 242, § 128; R.S.1943, (2003), § 71-5172; Laws 2007, LB463, § 485. Operative date December 1, 2008.

38-1202. Legislative intent; act; how construed. It is the intent of the Legislature in enacting the Emergency Medical Services Practice Act to (1) effectuate the delivery of quality out-of-hospital emergency medical care in the state, (2) eliminate duplication of statutory requirements, (3) merge the former boards responsible for regulating ambulance services and emergency medical care, (4) replace the former law regulating providers of and services delivering emergency medical care, (5) provide for the appropriate licensure of persons providing out-of-hospital medical care and licensure of organizations providing emergency medical services, (6) provide for the establishment of educational requirements and permitted practices for persons providing out-of-hospital emergency medical care, (7) provide a system for regulation of out-of-hospital emergency medical care which encourages out-of-hospital emergency care providers and emergency medical services to provide the highest degree of care which they are capable of providing, and (8) provide a flexible system for the regulation of out-of-hospital emergency care providers and emergency medical services that protects public health and safety.

The act shall be liberally construed to effect the purposes of, carry out the intent of, and discharge the responsibilities prescribed in the act.

Source: Laws 1997, LB 138, § 2; R.S.1943, (2003), § 71-5173; Laws 2007, LB463, § 486. Operative date December 1, 2008.

38-1203. Legislative findings. The Legislature finds:

(1) That out-of-hospital emergency medical care is a primary and essential health care service and that the presence of an adequately equipped ambulance and trained out-of-hospital emergency care providers may be the difference between life and death or permanent disability to those persons in Nebraska making use of such services in an emergency;

(2) That effective delivery of out-of-hospital emergency medical care may be assisted by a program of training and licensure of out-of-hospital emergency care providers and licensure of emergency medical services in accordance with rules and regulations adopted by the board;

(3) That the Emergency Medical Services Practice Act is essential to aid in advancing the quality of care being provided by out-of-hospital emergency care providers and by emergency medical services and the provision of effective, practical, and economical delivery of out-of-hospital emergency medical care in the State of Nebraska;

(4) That the services to be delivered by out-of-hospital emergency care providers are complex and demanding and that training and other requirements appropriate for delivery of the services must be constantly reviewed and updated; and

(5) That the enactment of a regulatory system that can respond to changing needs of patients and out-of-hospital emergency care providers and emergency medical services is in the best interests of the citizens of Nebraska.

Source: Laws 1997, LB 138, § 3; R.S.1943, (2003), § 71-5174; Laws 2007, LB463, § 487. Operative date December 1, 2008.

38-1204. Definitions, where found. For purposes of the Emergency Medical Services Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-1205 to 38-1214 apply.

Source: Laws 1997, LB 138, § 4; R.S.1943, (2003), § 71-5175; Laws 2007, LB296, § 602; Laws 2007, LB463, § 488. The changes made by LB 296 became operative July 1, 2007. The changes made by LB 463 became operative December 1, 2008.

38-1205. Ambulance, defined. Ambulance means any privately or publicly owned motor vehicle or aircraft that is especially designed, constructed or modified, and equipped and is intended to be used and is maintained or operated for the overland or air transportation of patients upon the streets, roads, highways, airspace, or public ways in this state, including funeral coaches or hearses, or any other motor vehicles or aircraft used for such purposes.

Source: Laws 2007, LB463, § 489. Operative date December 1, 2008.

38-1206. Board, defined. Board means the Board of Emergency Medical Services.

Source: Laws 2007, LB463, § 490. Operative date December 1, 2008.

38-1207. Emergency medical service, defined; amendment of section; how construed. Emergency medical service means the organization responding to a perceived individual need for medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury. The amendment of this section by Laws 2012, LB646, shall not be construed to modify or expand or authorize the modification or expansion of the scope of practice of any licensure classifications established pursuant to section 38-1217.

Source: Laws 2007, LB463, § 491; Laws 2012, LB646, § 1. Effective Date: March 8, 2012.

38-1208. Out-of-hospital emergency care provider. Out-of-hospital emergency care provider includes all licensure classifications of emergency care providers established pursuant to the Emergency Medical Services Practice Act.

Source: Laws 2007, LB463, § 492. Operative date December 1, 2008.

38-1209. Patient, defined. Patient means an individual who either identifies himself or herself as being in need of medical attention or upon assessment by an out-of-hospital emergency care provider has an injury or illness requiring treatment.

Source: Laws 2007, LB463, § 493. Operative date December 1, 2008.

38-1210. Physician medical director, defined. Physician medical director means a qualified physician who is responsible for the medical supervision of out-of-hospital emergency care providers and verification of skill proficiency of out-of-hospital emergency care providers pursuant to section 38-1217.

Source: Laws 2007, LB463, § 494. Operative date December 1, 2008.

38-1211. Protocol, defined. Protocol means a set of written policies, procedures, and directions from a physician medical director to an out-of-hospital emergency care provider concerning the medical procedures to be performed in specific situations.

Source: Laws 2007, LB463, § 495. Operative date December 1, 2008.

38-1212. Qualified physician, defined. Qualified physician means an individual who is licensed to practice medicine and surgery or osteopathic medicine and surgery pursuant to the Uniform Credentialing Act and meets any other requirements established by rule and regulation.

Source: Laws 2007, LB463, § 496. Operative date December 1, 2008.

38-1213. Qualified physician surrogate, defined. Qualified physician surrogate means a qualified, trained medical person designated by a qualified physician in writing to act as an agent for the physician in directing the actions or renewal of licensure of out-of-hospital emergency care providers.

Source: Laws 2007, LB463, § 497. Operative date December 1, 2008.

38-1214. Standing order, defined. Standing order means a direct order from the physician medical director to perform certain tasks for a patient under a specific set of circumstances.

Source: Laws 2007, LB463, § 498. Operative date December 1, 2008.

38-1215 Board; members; terms; meetings; removal. (1) The board shall have seventeen members appointed by the Governor with the approval of a majority of the Legislature. The appointees may begin to serve immediately following appointment and prior to approval by the Legislature.

(2)(a) Seven members of the board shall be active out-of-hospital emergency care providers at the time of and for the duration of their appointment, and each shall have at least five years of experience in his or her level of licensure at the time of his or her appointment or reappointment. Of the seven members who are out-of-hospital emergency care providers, two shall be first responders or emergency medical responders, two shall be emergency medical technicians, one shall be an emergency medical technician-intermediate or an advanced emergency medical technician, and two shall be emergency medical technicians-paramedic or paramedics.

(b) Three of the members shall be qualified physicians actively involved in emergency medical care. At least one of the physician members shall be a board-certified emergency physician.

(c) Five members shall be appointed to include one member who is a representative of an approved training agency, one member who is a physician assistant with at least five years of experience and active in out-of-hospital emergency medical care education, one member who is a registered nurse with at least five years of experience and active in out-of-hospital emergency medical care education, and two public members who meet the requirements of section 38-165 and who have an expressed interest in the provision of out-of-hospital emergency medical care.

(d) The remaining two members shall have any of the qualifications listed in subdivision (a), (b), or (c) of this subsection.

(e) In addition to any other criteria for appointment, among the members of the board there shall be at least one member who is a volunteer emergency medical care provider, at least one member who is a paid emergency medical care provider, at least one member who is a firefighter, at least one member who is a law enforcement officer, and at least one member who is active in the Critical Incident Stress Management Program. If a person appointed to the board is qualified to serve as a member in more than one capacity, all qualifications of such person shall be taken into consideration to determine whether or not the diversity in qualifications required in this subsection has been met.

(f) At least five members of the board shall be appointed from each congressional district, and at least one of such members shall be a physician member described in subdivision (b) of this subsection.

(3) Members shall serve five-year terms beginning on December 1 and may serve for any number of such terms. The terms of the members of the board appointed prior to December 1, 2008, shall be extended by two years and until December 1 of such year. Each member shall hold office until the expiration of his or her term. Any vacancy in membership, other than by expiration of a term, shall be filled within ninety days by the Governor by appointment as provided in subsection (2) of this section.

(4) Special meetings of the board may be called by the department or upon the written request of any six members of the board explaining the reason for such meeting. The place of the meetings shall be set by the department.

(5) The Governor upon recommendation of the department shall have power to remove from office at any time any member of the board for physical or mental incapacity to carry out the duties of a board member, for continued neglect of duty, for incompetency, for acting beyond the individual member's scope of authority, for malfeasance in office, for any cause for which a professional credential may be suspended or revoked pursuant to the Uniform Credentialing Act, or for a lack of license required by the Emergency Medical Services Practice Act.

(6) Except as provided in subsection (5) of this section and notwithstanding subsection (2) of this section, a member of the board who changes his or her licensure classification after appointment or has a licensure classification which is terminated under section 38-1217 when such licensure classification was a qualification for appointment shall be permitted to continue to serve as a member of the board until the expiration of his or her term.

Source: Laws 1997, LB 138, § 5; Laws 1998, LB 1073, § 146; Laws 2004, LB 821, § 18; R.S.Supp.,2006, § 71-5176; Laws 2007, LB463, § 499; Laws 2009, LB195, § 12. Effective Date: August 30, 2009.

38-1216. Board; duties. In addition to any other responsibilities prescribed by the Emergency Medical Services Practice Act, the board shall:

(1) Promote the dissemination of public information and education programs to inform the public about out-of-hospital emergency medical care and other out-of-hospital medical information, including appropriate methods of medical self-help, first aid, and the availability of out-of-hospital emergency medical services training programs in the state;

(2) Provide for the collection of information for evaluation of the availability and quality of out-of-hospital emergency medical care, evaluate the availability and quality of out-of-hospital emergency medical care, and serve as a focal point for discussion of the provision of out-of-hospital emergency medical care;

(3) Review and comment on all state agency proposals and applications that seek funding for out-of-hospital emergency medical care;

(4) Establish model procedures for patient management in out-of-hospital medical emergencies that do not limit the authority of law enforcement and fire protection personnel to manage the scene during an out-of-hospital medical emergency;

(5) Not less than once each five years, undertake a review and evaluation of the act and its implementation together with a review of the out-of-hospital emergency medical care needs of the citizens of the State of Nebraska and submit electronically a report to the Legislature with any recommendations which it may have; and

(6) Identify communication needs of emergency medical services and make recommendations for development of a communications plan for a communications network for out-of-hospital emergency care providers and emergency medical services.

Source: Laws 1997, LB 138, § 6; R.S.1943, (2003), § 71-5177; Laws 2007, LB463, § 500; Laws 2012, LB782, § 38. Operative Date: July 19, 2012.

38-1217 Rules and regulations. The board shall adopt rules and regulations necessary to:

(1)(a) For licenses issued prior to September 1, 2010, create the following licensure classifications of out-of-hospital emergency care providers: (i) First responder; (ii) emergency medical technician; (iii) emergency medical technician-intermediate; and (iv) emergency medical technician-paramedic; and (b) for licenses issued on or after

September 1, 2010, create the following licensure classifications of out-of-hospital emergency care providers: (i) Emergency medical responder; (ii) emergency medical technician; (iii) advanced emergency medical technician; and (iv) paramedic. The rules and regulations creating the classifications shall include the practices and procedures authorized for each classification, training and testing requirements, renewal and reinstatement requirements, and other criteria and qualifications for each classification determined to be necessary for protection of public health and safety. A person holding a license issued prior to September 1, 2010, shall be authorized to practice in accordance with the laws, rules, and regulations governing the license for the term of the license;

(2) Provide for temporary licensure of an out-of-hospital emergency care provider who has completed the educational requirements for a licensure classification enumerated in subdivision (1)(b) of this section but has not completed the testing requirements for licensure under such subdivision. Temporary licensure shall be valid for one year or until a license is issued under such subdivision and shall not be subject to renewal. The rules and regulations shall include qualifications and training necessary for issuance of a temporary license, the practices and procedures authorized for a temporary licensee, and supervision required for a temporary licensee;

(3) Set standards for the licensure of basic life support services and advanced life support services. The rules and regulations providing for licensure shall include standards and requirements for: Vehicles, equipment, maintenance, sanitation, inspections, personnel, training, medical direction, records maintenance, practices and procedures to be provided by employees or members of each classification of service, and other criteria for licensure established by the board;

(4) Authorize emergency medical services to provide differing practices and procedures depending upon the qualifications of out-of-hospital emergency care providers available at the time of service delivery. No emergency medical service shall be licensed to provide practices or procedures without the use of personnel licensed to provide the practices or procedures;

(5) Authorize out-of-hospital emergency care providers to perform any practice or procedure which they are authorized to perform with an emergency medical service other than the service with which they are affiliated when requested by the other service and when the patient for whom they are to render services is in danger of loss of life;

(6) Provide for the approval of training agencies and establish minimum standards for services provided by training agencies;

(7) Provide for the minimum qualifications of a physician medical director in addition to the licensure required by section 38-1212;

(8) Provide for the use of physician medical directors, qualified physician surrogates, model protocols, standing orders, operating procedures, and guidelines which may be necessary or appropriate to carry out the purposes of the Emergency Medical Services Practice Act. The model protocols, standing orders, operating procedures, and guidelines may be modified by the physician medical director for use by any out-of-hospital emergency care provider or emergency medical service before or after adoption;

(9) Establish criteria for approval of organizations issuing cardiopulmonary resuscitation certification which shall include criteria for instructors, establishment of certification periods and minimum curricula, and other aspects of training and certification;

(10) Establish renewal and reinstatement requirements for out-of-hospital emergency care providers and emergency medical services and establish continuing competency requirements. Continuing education is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 38-145 which a licensed person may select as an alternative to continuing education. The reinstatement requirements for out-of-hospital emergency care providers shall allow reinstatement at the same or any lower level of licensure for which the out-of-hospital emergency care provider is determined to be qualified;

(11) Establish criteria for deployment and use of automated external defibrillators as necessary for the protection of the public health and safety;

(12) Create licensure, renewal, and reinstatement requirements for emergency medical service instructors. The rules and regulations shall include the practices and procedures for licensure, renewal, and reinstatement;

(13) Establish criteria for emergency medical technicians-intermediate, advanced emergency medical technicians, emergency medical technicians-paramedic, or paramedics performing activities within their scope of practice at a hospital or health clinic under subsection (3) of section 38-1224. Such criteria shall include, but not be limited to: (a) Requirements for the orientation of registered nurses, physician assistants, and physicians involved in the supervision of such personnel; (b) supervisory and training requirements for the physician medical director or other person in charge of the medical staff at such hospital or health clinic; and (c) a requirement that such activities shall only be performed at the discretion of, and with the approval of, the governing authority of such hospital or health clinic. For purposes of this subdivision, health clinic has the definition found in section 71-416 and hospital has the definition found in section 71-419; and

(14) Establish criteria and requirements for emergency medical technicians-intermediate to renew licenses issued prior to September 1, 2010, and continue to practice after such classification has otherwise terminated

under subdivision (1) of this section. The rules and regulations shall include the qualifications necessary to renew emergency medical technicians-intermediate licenses after September 1, 2010, the practices and procedures authorized for persons holding and renewing such licenses, and the renewal and reinstatement requirements for holders of such licenses.

Source: Laws 1997, LB 138, § 7; Laws 1999, LB 498, § 2; Laws 2001, LB 238, § 1; Laws 2002, LB 1021, § 87; Laws 2002, LB 1033, § 1; R.S.1943, (2003), § 71-5178; Laws 2007, LB463, § 501; Laws 2009, LB195, § 13. Effective Date: August 30, 2009.

38-1218 Licensure classification. (1) The Legislature adopts all parts of the United States Department of Transportation curricula, including appendices, and skills as the training requirements and permitted practices and procedures for the licensure classifications listed in subdivision (1)(a) of section 38-1217 until modified by the board by rule and regulation. The Legislature adopts the United States Department of Transportation National Emergency Medical Services Education Standards and the National Emergency Medical Services Scope of Practice for the licensure classifications listed in subdivision (1)(b) of section 38-1217 until modified by the board by rule and regulation. The board may approve curricula for the licensure classifications listed in subdivision (1) of section 38-1217.

(2) The department and the board shall consider the following factors, in addition to other factors required or permitted by the Emergency Medical Services Practice Act, when adopting rules and regulations for a licensure classification:

(a) Whether the initial training required for licensure in the classification is sufficient to enable the out-of-hospital emergency care provider to perform the practices and procedures authorized for the classification in a manner which is beneficial to the patient and protects public health and safety;

(b) Whether the practices and procedures to be authorized are necessary to the efficient and effective delivery of out-of-hospital emergency medical care;

(c) Whether morbidity can be reduced or recovery enhanced by the use of the practices and procedures to be authorized for the classification; and

(d) Whether continuing competency requirements are sufficient to maintain the skills authorized for the classification.

Source: Laws 1997, LB 138, § 8; Laws 2002, LB 1021, § 88; R.S.1943, (2003), § 71-5179; Laws 2007, LB463, § 502; Laws 2009, LB195, § 14. Effective Date: August 30, 2009.

38-1219 Department; additional rules and regulations. The department, with the recommendation of the board, shall adopt and promulgate rules and regulations necessary to:

(1) Administer the Emergency Medical Services Practice Act;

(2) Provide for curricula which will allow out-of-hospital emergency care providers and users of automated external defibrillators as defined in section 71-51,102 to be trained for the delivery of practices and procedures in units of limited subject matter which will encourage continued development of abilities and use of such abilities through additional authorized practices and procedures;

(3) Establish procedures and requirements for applications for licensure, renewal, and reinstatement in any of the licensure classifications created pursuant to the Emergency Medical Services Practice Act, including provisions for issuing an emergency medical responder license to a licensee renewing his or her first responder license after September 1, 2010, and for issuing a paramedic license to a licensee renewing his or her emergency medical technician-paramedic license after September 1, 2010; and

(4) Provide for the inspection, review, and termination of approval of training agencies. All training for licensure shall be provided through an approved training agency.

Source: Laws 2007, LB463, § 503; Laws 2009, LB195, § 15. Effective Date: August 30, 2009.

38-1220. Act; exemptions. The following are exempt from the licensing requirements of the Emergency Medical Services Practice Act:

(1) The occasional use of a vehicle or aircraft not designated as an ambulance and not ordinarily used in transporting patients or operating emergency care, rescue, or resuscitation services;

(2) Vehicles or aircraft rendering services as an ambulance in case of a major catastrophe or emergency when licensed ambulances based in the localities of the catastrophe or emergency are incapable of rendering the services required;

(3) Ambulances from another state which are operated from a location or headquarters outside of this state in order to transport patients across state lines, but no such ambulance shall be used to pick up patients within this state for transportation to locations within this state except in case of an emergency;

(4) Ambulances or emergency vehicles owned and operated by an agency of the United States Government and the personnel of such agency;

(5) Except for the provisions of section 38-1232, physicians, physician assistants, registered nurses, licensed practical nurses, or advanced practice registered nurses, who hold current Nebraska licenses and are exclusively engaged in the practice of their respective professions;

(6) Persons authorized to perform out-of-hospital emergency care in other states when incidentally working in Nebraska in response to an emergency situation; and

(7) Students under the supervision of a licensed out-of-hospital emergency care provider performing emergency medical services that are an integral part of the training provided by an approved training agency.

Source: Laws 1997, LB 138, § 20; Laws 2000, LB 1115, § 76; Laws 2005, LB 256, § 94; R.S.Supp.,2006, § 71-5191; Laws 2007, LB463, § 504. Operative date December 1, 2008.

38-1221 License; requirements; term. (1) To be eligible for a license under the Emergency Medical Services Practice Act, an individual shall have attained the age of eighteen years and met the requirements established in accordance with subdivision (1), (2), or (14) of section 38-1217.

(2) All licenses issued under the act other than temporary licenses shall expire the second year after issuance.

(3) An individual holding a certificate under the Emergency Medical Services Act on December 1, 2008, shall be deemed to be holding a license under the Uniform Credentialing Act and the Emergency Medical Services Practice Act on such date. The certificate holder may continue to practice under such certificate as a license in accordance with the Uniform Credentialing Act until the certificate would have expired under its terms.

Source: Laws 2007, LB463, § 505; Laws 2009, LB195, § 16. Effective Date: August 30, 2009.

38-1222. Fees. The department shall establish and collect fees for credentialing activities under the Emergency Medical Services Practice Act as provided in sections 38-151 to 38-157.

Source: Laws 2003, LB 242, § 129; R.S.1943, (2003), § 71-5181.01; Laws 2007, LB463, § 506. Operative date December 1, 2008.

38-1223. Physician medical director; required. Each licensed emergency medical service shall have a physician medical director.

Source: Laws 1997, LB 138, § 12; R.S.1943, (2003), § 71-5183; Laws 2007, LB463, § 507. Operative date December 1, 2008.

38-1224 Duties and activities authorized; limitations. (1) An out-of-hospital emergency care provider other than a first responder or an emergency medical responder as classified under section 38-1217 may not assume the duties incident to the title or practice the skills of an out-of-hospital emergency care provider unless he or she is employed by or serving as a volunteer member of an emergency medical service licensed by the department.

(2) An out-of-hospital emergency care provider may only practice the skills he or she is authorized to employ and which are covered by the license issued to such provider pursuant to the Emergency Medical Services Practice Act.

(3) An emergency medical technician-intermediate, an emergency medical technician-paramedic, an advanced emergency medical technician, or a paramedic may volunteer or be employed at a hospital as defined in section 71-419 or a health clinic as defined in section 71-416 to perform activities within his or her scope of practice within such hospital or health clinic under the supervision of a registered nurse, a physician assistant, or a physician. Such activities shall be performed in a manner established in rules and regulations adopted and promulgated by the department, with the recommendation of the board.

Source: Laws 1997, LB 138, § 13; Laws 1998, LB 1073, § 147; Laws 2002, LB 1033, § 2; R.S.1943, (2003), § 71-5184; Laws 2007, LB463, § 508; Laws 2009, LB195, § 17. Effective Date: August 30, 2009.

38-1225. Patient data; confidentiality; immunity. (1) No patient data received or recorded by an emergency medical service or an out-of-hospital emergency care provider shall be divulged, made public, or released by an emergency medical service or an out-of-hospital emergency care provider, except that patient data may be released for purposes of treatment, payment, and other health care operations as defined and permitted under the federal Health Insurance Portability and Accountability Act of 1996, as such act existed on January 1, 2007, or as otherwise permitted by law. Such data shall be provided to the department for public health purposes pursuant to rules and regulations of the department. For purposes of this section, patient data means any data received or recorded as part of the records maintenance requirements of the Emergency Medical Services Practice Act.

(2) Patient data received by the department shall be confidential with release only (a) in aggregate data reports created by the department on a periodic basis or at the request of an individual, (b) as case-specific data to approved researchers for specific research projects, (c) as protected health information to a public health authority, as such terms are defined under the federal Health Insurance Portability and Accountability Act of 1996, as such act existed on January 1, 2007, and (d) as protected health information, as defined under the federal

Health Insurance Portability and Accountability Act of 1996, as such act existed on January 1, 2007, to an emergency medical service, to an out-of-hospital emergency care provider, or to a licensed health care facility for purposes of treatment. A record may be shared with the emergency medical service or out-of-hospital emergency care provider that reported that specific record. Approved researchers shall maintain the confidentiality of the data, and researchers shall be approved in the same manner as described in section 81-666. Aggregate reports shall be public documents.

(3) No civil or criminal liability of any kind or character for damages or other relief or penalty shall arise or be enforced against any person or organization by reason of having provided patient data pursuant to this section.

Source: Laws 1997, LB 138, § 14; Laws 2003, LB 667, § 11; R.S.1943, (2003), § 71-5185; Laws 2007, LB185, § 42; Laws 2007, LB463, § 509. The changes made by LB 185 became operative September 1, 2007. The changes made by LB 463 became operative December 1, 2008.

38-1226. Ambulance; transportation requirements. No ambulance shall transport any patient upon any street, road, highway, airspace, or public way in the State of Nebraska unless such ambulance, when so transporting patients, is occupied by at least one licensed out-of-hospital emergency care provider. Such requirement shall be met if any of the individuals providing the service is a licensed physician, registered nurse, licensed physician assistant, or licensed practical nurse functioning within the scope of practice of his or her license.

Source: Laws 1997, LB 138, § 15; R.S.1943, (2003), § 71-5186; Laws 2007, LB463, § 510. Operative date December 1, 2008.

38-1227. Motor vehicle ambulance; driver privileges. The driver of a licensed motor vehicle ambulance who holds a valid driver's license issued by the state of his or her residence may exercise the privileges set forth in Nebraska statutes relating to emergency vehicles when responding to an emergency call or while transporting a patient.

Source: Laws 1997, LB 138, § 16; R.S.1943, (2003), § 71-5187; Laws 2007, LB463, § 511. Operative date December 1, 2008.

38-1228. Department; waive rule, regulation, or standard; when. The department, with the approval of the board, may, whenever it deems appropriate, waive any rule, regulation, or standard relating to the licensure of emergency medical services or out-of-hospital emergency care providers when the lack of a licensed emergency medical service in a municipality or other area will create an undue hardship in the municipality or other area in meeting the emergency medical service needs of the people thereof.

Source: Laws 1997, LB 138, § 17; R.S.1943, (2003), § 71-5188; Laws 2007, LB463, § 512. Operative date December 1, 2008.

38-1229. License; person on national registry. The department, with the recommendation of the board, may issue a license to any individual who has a current certificate from the National Registry of Emergency Medical Technicians. The level of such licensure shall be determined by the board.

Source: Laws 1997, LB 138, § 18; R.S.1943, (2003), § 71-5189; Laws 2007, LB463, § 513. Operative date December 1, 2008.

38-1230. License; sale, transfer, or assignment; prohibited. A license issued under the Emergency Medical Services Practice Act shall not be sold, transferred, or assigned by the holder. Any change of ownership of an emergency medical service requires a new application and a new license.

Source: Laws 1997, LB 138, § 19; R.S.1943, (2003), § 71-5190; Laws 2007, LB463, § 514. Operative date December 1, 2008.

38-1231. Person objecting to treatment; effect. The Emergency Medical Services Practice Act or the rules or regulations shall not be construed to authorize or require giving any medical treatment to a person who objects to such treatment on religious or other grounds or to authorize the transportation of such person to a medical facility.

Source: Laws 1997, LB 138, § 22; R.S.1943, (2003), § 71-5193; Laws 2007, LB463, § 515. Operative date December 1, 2008.

38-1232 Individual liability. (1) No out-of-hospital emergency care provider, physician assistant, registered nurse, or licensed practical nurse who provides public emergency care shall be liable in any civil action to respond in damages as a result of his or her acts of commission or omission arising out of and in the course of his or her rendering in good faith any such care. Nothing in this subsection shall be deemed to grant any such immunity for

liability arising out of the operation of any motor vehicle, aircraft, or boat or while such person was impaired by alcoholic liquor or any controlled substance enumerated in section 28-405 in connection with such care, nor shall immunity apply to any person causing damage or injury by his or her willful, wanton, or grossly negligent act of commission or omission.

(2) No qualified physician or qualified physician surrogate who gives orders, either orally or by communication equipment, to any out-of-hospital emergency care provider at the scene of an emergency, no out-of-hospital emergency care provider following such orders within the limits of his or her licensure, and no out-of-hospital emergency care provider trainee in an approved training program following such orders, shall be liable civilly or criminally by reason of having issued or followed such orders but shall be subject to the rules of law applicable to negligence.

(3) No physician medical director shall incur any liability by reason of his or her use of any unmodified protocol, standing order, operating procedure, or guideline provided by the board pursuant to subdivision (8) of section 38-1217.

Source: Laws 1997, LB 138, § 23; R.S.1943, (2003), § 71-5194; Laws 2007, LB463, § 516; Laws 2009, LB195, § 18. Effective Date: August 30, 2009.

38-1233. Out-of-hospital emergency care provider; liability relating to consent. No out-of-hospital emergency care provider shall be subject to civil liability based solely upon failure to obtain consent in rendering emergency medical, surgical, hospital, or health services to any individual regardless of age when the patient is unable to give his or her consent for any reason and there is no other person reasonably available who is legally authorized to consent to the providing of such care.

Source: Laws 1997, LB 138, § 24; R.S.1943, (2003), § 71-5195; Laws 2007, LB463, § 517. Operative date December 1, 2008.

38-1234. Out-of-hospital emergency care provider; liability within scope of practice. No act of commission or omission of any out-of-hospital emergency care provider while rendering emergency medical care within the limits of his or her licensure or status as a trainee to a person who is deemed by the provider to be in immediate danger of injury or loss of life shall impose any liability on any other person, and this section shall not relieve the out-of-hospital emergency care provider from personal liability, if any.

Source: Laws 1997, LB 138, § 25; R.S.1943, (2003), § 71-5196; Laws 2007, LB463, § 518. Operative date December 1, 2008.

38-1235. Department; accept gifts. The department may accept from any person, in the name of and for the state, services, equipment, supplies, materials, or funds by way of bequest, gift, or grant for the purposes of promoting emergency medical care. Any such funds received shall be remitted to the State Treasurer for credit to the Health and Human Services Cash Fund.

Source: Laws 1997, LB 138, § 26; R.S.1943, (2003), § 71-5197; Laws 2007, LB296, § 604; Laws 2007, LB463, § 519. The changes made by LB 296 became operative July 1, 2007. The changes made by LB 463 became operative December 1, 2008.

38-1236. Act; construction with other laws. The provisions of the Emergency Medical Services Practice Act shall not be construed to supersede, limit, or otherwise affect the state emergency management laws or any interstate civil defense compact participated in by the State of Nebraska dealing with the licenses for professional, mechanical, or other skills of persons performing emergency management functions.

Source: Laws 1997, LB 138, § 27; R.S.1943, (2003), § 71-5198; Laws 2007, LB463, § 520. Operative date December 1, 2008.

38-1237. Prohibited acts. It shall be unlawful for any person who has not been licensed pursuant to the Emergency Medical Services Practice Act to hold himself or herself out as an out-of-hospital emergency care provider, to use any other term to indicate or imply that he or she is an out-of-hospital emergency care provider, or to act as such a provider without a license therefor. It shall be unlawful for any person to operate a training agency for the initial training or renewal or reinstatement of licensure of out-of-hospital emergency care providers unless the training agency is approved pursuant to rules and regulations of the board. It shall be unlawful for any person to operate an emergency medical service unless such service is licensed.

Source: Laws 1997, LB 138, § 28; R.S.1943, (2003), § 71-5199; Laws 2007, LB463, § 521. Operative date December 1, 2008.

(a) EMERGENCY MEDICAL TECHNICIANS

71-5101 to 51-5165. Repealed. Laws 1997, LB 138, §57.

STATUTES PERTAINING TO EMERGENCY MEDICAL SERVICES
(c) EMERGENCY MEDICAL SERVICES ACT

71-5172. Transferred to section 38-1201.
71-5173. Transferred to section 38-1202.
71-5174. Transferred to section 38-1203.
71-5175. Transferred to section 38-1204.
71-5176. Transferred to section 38-1215.
71-5177. Transferred to section 38-1216.
71-5178. Transferred to section 38-1217.
71-5179. Transferred to section 38-1218.
71-5180. Repealed. Laws 2007, LB 463, § 1319.
71-5181. Repealed. Laws 2007, LB 463, § 1319.
71-5181.01. Transferred to section 38-1222.
71-5182. Repealed. Laws 2007, LB 463, § 1319.
71-5183. Transferred to section 38-1223.
71-5184. Transferred to section 38-1224.
71-5185. Transferred to section 38-1225.
71-5186. Transferred to section 38-1226.
71-5187. Transferred to section 38-1227.
71-5188. Transferred to section 38-1228.
71-5189. Transferred to section 38-1229.
71-5190. Transferred to section 38-1230.
71-5191. Transferred to section 38-1220.
71-5192. Repealed. Laws 2007, LB 463, § 1319.
71-5193. Transferred to section 38-1231.
71-5194. Transferred to section 38-1232.
71-5195. Transferred to section 38-1233.
71-5196. Transferred to section 38-1234.
71-5197. Transferred to section 38-1235.
71-5198. Transferred to section 38-1236.
71-5199. Transferred to section 38-1237.
71-51,100. Repealed. Laws 2007, LB 463, § 1319.
71-51,101. Repealed. Laws 1997, LB 90, § 8.

STATUTES PERTAINING TO EMERGENCY MEDICAL SERVICES
(d) AUTOMATED EXTERNAL DEFIBRILLATOR

71-51,102. Automated external defibrillator; use; conditions; liability. (1) For purposes of this section:

- (a) Automated external defibrillator means a device that:
 - (i) Is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia and is capable of determining, without intervention of an operator, whether defibrillation should be performed; and
 - (ii) Automatically charges and requests delivery of an electrical impulse to an individual's heart when it has identified a condition for which defibrillation should be performed;
- (b) Emergency medical service means an emergency medical service as defined in section 38-1207;
- (c) Health care facility means a health care facility as defined in section 71-413;
- (d) Health care practitioner facility means a health care practitioner facility as defined in section 71-414; and
- (e) Health care professional means any person who is licensed, certified, or registered by the Department of Health and Human Services and who is authorized within his or her scope of practice to use an automated external defibrillator.

(2) Except for the action or omission of a health care professional acting in such capacity or in a health care facility, no person who delivers emergency care or treatment using an automated external defibrillator shall be liable in any civil action to respond in damages as a result of his or her acts of commission or omission arising out of and in the course of rendering such care or treatment in good faith. Nothing in this subsection shall be construed to (a) grant immunity for any willful, wanton, or grossly negligent acts of commission or omission or (b) limit the immunity provisions for certain health care professionals as provided in section 38-1232.

(3) A person acquiring an automated external defibrillator shall notify the local emergency medical service of

the existence, location, and type of the defibrillator and of any change in the location of such defibrillator unless the defibrillator was acquired for use in a private residence, a health care facility, or a health care practitioner facility.

Source: Laws 1999, LB 498, § 1; Laws 2000, LB 819, § 111; Laws 2003, LB 667, § 12; Laws 2005, LB 176, § 1; Laws 2007, LB296, § 605; Laws 2007, LB463, § 1221. The changes made by LB 296 became operative July 1, 2007. The changes made by LB 463 became operative December 1, 2008.

STATUTES PERTAINING TO EMERGENCY MEDICAL SERVICES (e) NEBRASKA EMERGENCY MEDICAL SYSTEM OPERATIONS FUND

71-51,103. Nebraska Emergency Medical System Operations Fund; created; use; investment. There is hereby created the Nebraska Emergency Medical System Operations Fund. The fund may receive gifts, bequests, grants, fees, or other contributions or donations from public or private entities. The fund shall be used to carry out the purposes of the Statewide Trauma System Act and the Emergency Medical Services Practice Act, including activities related to the design, maintenance, or enhancement of the statewide trauma system, support of emergency medical services programs, and support for the emergency medical services programs for children. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2001, LB 191, § 2; Laws 2007, LB296, § 606; Laws 2007, LB463 § 1222; Laws 2012, LB782, § 119; Laws 2013, LB222, § 28. Effective Date: May 8, 2013.

STATUTES PERTAINING TO EMERGENCY MEDICAL CARE

71-5501 to 71-5518.	Repealed. Laws 1997, LB 138, §57.
71-5519.	Transferred to section 71-5501.01.
71-5520 to 71-5521.01.	Repealed. Laws 1997, LB 138, §57.
71-5522.	Transferred to section 71-5514.01.
71-5523.	Repealed. Laws 1997, LB 138, §57.

STATUTES PERTAINING TO THE FIRST RESPONDERS EMERGENCY RESCUE ACT

71-7301 to 71-7318. Repealed. Laws 1997, LB 138, §57.